

REMARKS/ARGUMENTS

The rejection presented in the Office Action dated September 1, 2006 (hereinafter Office Action) has been considered. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant respectfully maintains the traversal of the §103(a) rejection of Claims 1-37 based upon the teachings of U.S. Publication No. 2003/0100295 by Sakai *et al.* (hereinafter "Sakai") in view of U.S. Patent No. 6,529,737 to Skinner *et al.* (hereinafter "Skinner") because the asserted references, alone or in combination, do not correspond to the claimed invention. As acknowledged at page six of the Office Action, Sakai does not teach at least a control unit configured to save messages related to unanswered calls and constitute contact attempts from those messages. The Examiner's reliance on Skinner fails to overcome these deficiencies. For example, the cited portions of Skinner do not teach that messages relating to unanswered calls are included in a list of contact attempts constituted by a control unit. The mere display of a message as it is received in Skinner does not correspond to the claimed control unit saving such messages and constituting contact attempts using the saved message. *See, e.g.*, paragraph [0022] of the instant Specification.

Moreover, neither of the asserted references teaches constituting contact attempts from both unanswered call data and messages relating to unanswered call data. Sakai does not disclose any use of messages related to unanswered call data, and Skinner does not disclose a control unit constituting contact attempts from messages related to unanswered calls. In an effort to facilitate prosecution and without acquiescing to characterizations of the asserted art, Applicant's claimed subject matter, or to the applications of the asserted art or combinations thereof to Applicant's claimed subject matter, Applicant has amended independent Claims 1, 10, 19 and 28 to characterize that the constituted call attempts include both unanswered call data and messages relating to unanswered calls. These changes merely more explicitly state that which was already implicit through the use of the word "and". Further support may be found in the Specification at paragraphs [0022] and [0023]. Thus, these changes do not introduce new matter and are believed to further illustrate subject matter that is absent in both of the asserted references. Thus, the asserted

combination of references does not correspond to at least these limitations, and the rejection is improper.

Dependent Claims 2-9, 11-18, 20-27 and 29-37 depend from independent Claims 1, 10, 19 and 28, respectively, and each of these claims also stand rejected under 35 U.S.C. §103(a) as being unpatentable over the above-discussed combination of Sakai and Skinner. While Applicant does not acquiesce to any particular rejections to these dependent claims, including any assertions concerning descriptive material, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with independent Claims 1, 10, 19 and 28. These dependent claims include all of the limitations of their respective base claims and any intervening claims, and recite additional features which further distinguish these claims from the cited references. "If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious." MPEP §2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent Claims 2-9, 11-18, 20-27 and 29-37 are also allowable over the combination of Sakai and Skinner.

With particular respect to the rejections of dependent Claims 2, 11, 20 and 29, the Examiner has not shown that the asserted combination of references teaches the claimed limitations. The relied-upon portions of Skinner do not teach that in constituting contact attempts unanswered call data is combined together with a message relating to an unanswered call where both refer to the same caller. In contrast the cited portions of Skinner merely teach that a short message may be sent to, and received by, a subscriber. While the short message may comprise information about the originator, there is no teaching that the subscriber's terminal combines unanswered call data with the message when both refer to the same originator to constitute contact attempts. These same two portions of Skinner also fail to disclose any finding of a reference to a same caller as alleged in the rejections of dependent Claims 3, 12, 21 and 30. Thus, the asserted combination of references does not teach at least each of the limitations of Claims 2, 3, 11, 12, 20, 21, 29 and 30. Without a presentation of correspondence to each of the claimed limitations, the

§103(a) rejection is improper. Applicant accordingly requests that the rejection be withdrawn.

In addition to having to show that the asserted combination of references teaches or suggests all of the claim limitations, the Examiner must show evidence of motivation to combine these references as asserted. Applicant respectfully submits that this requirement has not been met.

Applicant maintains that the Examiner has not presented any objective teaching to combine the asserted references to achieve the claimed invention. *See, e.g., In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). The claimed invention is directed to constituting and presenting contact attempts where both types of contact attempts (unanswered call data and messages relating to unanswered call data) are included in such constitution and presentation. In contrast the Examiner has merely asserted that one reference (Sakai) teaches constituting contact attempts of unanswered call data and another reference (Skinner) teaches receiving messages. No evidence has been provided that a skilled artisan would combine these references to constitute contact attempts, as claimed. In contrast, each reference teaches only presenting one type of contact attempt at a time, therefore, any combination of these references would result in the known manner of presenting unanswered call data: a number of missed calls separate from the number of unread messages. *See, e.g.,* paragraph [0003] of the instant Specification.

Applicant also reiterates that the proffered motivation to combine the references, “to enable a subscriber screening calls due to an insufficient identification of an originator or an unavailable subscriber to decide whether to accept a call from an originator or respond at a later time” is insufficient. This is not a motivation to combine the teachings of the cited references, but rather, is a generalized statement of what is taught by Skinner. Thus, the requisite evidence has not been presented that a skilled artisan would combine the teachings of Sakai and Skinner as asserted, nor that such a combination would correspond to the claimed invention.

It is to be understood that Applicant does not acquiesce to the Office Action’s characterization of the asserted art or Applicant’s claimed subject matter, nor of the Office

Action's application of the asserted art or combinations thereof to Applicant's claimed subject matter. Moreover, Applicant does not acquiesce to the Office Action's statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant's invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Office Action's characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (NKO.011.US) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact her at the number below to discuss any issues related to this case.

Respectfully submitted,

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By: 

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